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EXAMINER

LOPEZ, AMADEUS SEBASTIAN

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 06/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/664,385	Applicant(s) GRADON ET AL.	
	Examiner Amadeus S. Lopez	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09097832.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/23/05, 11/19/05, 3/22/04, 11/6/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Applicant is reminded that in order for a patent issuing on the instant application to obtain the benefit of priority based on priority papers filed in parent Application No. 09/585867 or 09/097832 under 35 U.S.C. 119(a)-(d) or (f), a claim for such foreign priority must be timely made in this application. To satisfy the requirement of 37 CFR 1.55(a)(2) for a certified copy of the foreign application, applicant may simply identify the application containing the certified copy.

Information Disclosure Statement

2. All references disclosed in the Information disclosure statements filed on 11/06/2003, 03/22/2004, 05/23/2003, and 11/14/2005 have been considered by the examiner. Information Disclosure statement filed on 9/13/2003 has not been considered by the examiner because Form PTO-1449 has not been submitted as stated.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The

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disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it exceeds the maximum number of words allowed of 150. Correction is required. See MPEP § 608.01(b).

4. The disclosure is objected to because of the following informalities:

On page 1, in the second line of the last full paragraph, the word "recognized" should be deleted and replaced with -- recognized --.

On page 4, in the third line of the third paragraph, the word "effect" should be deleted and replaced with --affect --.

On page 7, in the first line of the first full paragraph, "Figure 1" should be deleted and replaced with -- Figure 5 --.

On page 7, in the last line of the last paragraph, the word --be -- should be added between the words "will" and "described" to form the phrase -- will be described --.

Appropriate correction is required.

Claim Objections

5. Claim 12 is objected to because of the following informalities: In line 3 of the specified claim, the word "effect" should be deleted and replaced with -- affect --.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 16 recites the limitation "the end" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. **Claims 1-5 and 7-14 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6802314 ('314). Although the conflicting claims are not identical, they are not patentably distinct from each other because they are drawn to the same invention.**

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8. **With regards to claim 1** of the instant application, all the limitations can be found in claims 1, 2, and 15 with the exception of clarifying that the interconnection of the depression and a tooth of the component provides a predetermined orientation of a sensor within said interior. However if every element of the apparatus is disclosed within the claims 1, 2, and 15 of patent no. 6802314 and that there is an interconnection of said locating depression and tooth then it is inherent that they would provide a predetermined orientation of a sensor within said interior as claimed in the instant application.

9. **With regards to claim 2** of the instant application, all the limitations can be found in claims 1, 2, 4, and 15 of ('314).

10. **With regards to claim 3** of the instant application, all the limitations can be found in claims 4 and 5 of ('314).

11. **With regards to claim 4** of the instant application, all the limitations can be found in claim 6 of ('314).

12. **With regards to claim 5** of the instant application, all the limitations can be found in claim 7 of ('314).

13. **With regards to claim 7** of the instant application, all the limitations can be found in claim 9 of ('314).

14. **With regards to claim 8** of the instant application, all the limitations can be found in claim 10 of ('314).

15. **With regards to claim 9** of the instant application, all the limitations can be found in claim 11 of ('314).

16. **With regards to claim 10** of the instant application, all the limitations can be found in claim 12 of ('314).

17. **With regards to claim 11** of the instant application, all the limitations can be found in claim 13 of ('314).

18. **With regards to claim 12** of the instant application, all the limitations can be found in claim 14 and 5 of ('314).

19. **With regards to claim 13** of the instant application, all the limitations can be found in claim 15 of ('314).

20. **With regards to claim 14** of the instant application, all the limitations can be found in claims 1, 2, and 15 with the exception of clarifying that the interconnection of the depression and a tooth of the component provides a predetermined orientation of a sensor within said interior. However if every element of the apparatus is disclosed within the claims 1, 2, and 15 of patent no. 6802314 and that there is an interconnection of said locating depression and tooth, then it is inherent that they would provide a predetermined orientation of a sensor within said interior as claimed in the instant application.

21. **Claims 1-11 and 13 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6272933 ('933). Although the conflicting claims are not identical, they are not patentably distinct from each other because they are drawn to the same invention.**

22. **With regards to claim 1** of the instant application, all the limitations can be found in claims 1, 2, and 12 with the exception of clarifying that the interconnection of the depression and a tooth of the component provides a predetermined orientation of a sensor within said interior. However if every element of the apparatus is disclosed within the claims 1, 2, and 12 of patent no. 6272933 and that there is an interconnection of said locating depression and tooth, then it is inherent that they would provide a predetermined orientation of a sensor within said interior as claimed in the instant application.

23. **With regards to claim 2** of the instant application, all the limitations can be found in claim 1 of ('933).

24. **With regards to claim 3** of the instant application, all the limitations can be found in claim 2 of ('933).

25. **With regards to claim 4** of the instant application, all the limitations can be found in claim 3 of ('933).

26. **With regards to claim 5** of the instant application, all the limitations can be found in claim 4 of ('933).

27. **With regards to claim 6** of the instant application, all the limitations can be found in claim 5 of ('933).

28. **With regards to claim 7** of the instant application, all the limitations can be found in claim 6 of ('933).

29. **With regards to claim 8** of the instant application, all the limitations can be found in claim 7 of ('933).

30. With regards to claim 9 of the instant application, all the limitations can be found in claim 8 of ('933).

31. With regards to claim 10 of the instant application, all the limitations can be found in claim 9 of ('933).

32. With regards to claim 11 of the instant application, all the limitations can be found in claim 10 of ('933).

33. With regards to claim 13 of the instant application, all the limitations can be found in claim 12 of ('933).

34. Claims 1-10 and 12-14 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6694974 ('974). Although the conflicting claims are not identical, they are not patentably distinct from each other because they are drawn to the same invention.

35. With regards to claim 1 of the instant application, all the limitations can be found in claims 1, 11, and 13 of ('974) with the exception of clarifying that the interconnection of the depression and a tooth of the component provide a predetermined orientation of a sensor within said interior. However if every element of the apparatus is disclosed within the claims 1, 11, and 13 of patent no. 6694974 and that there is an interconnection of said locating depression and tooth, then it is inherent that they would provide a predetermined orientation of a sensor within said interior as claimed in the instant application.

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36. With regards to claims 2-6 of the instant application, all the limitations can be found in claim 11 of ('974).

37. With regards to claims 7-10 and 12 of the instant application, all the limitations can be found in claim 12 of ('974).

38. With regards to claim 13 of the instant application, all the limitations can be found in claim 13 of ('974).

39. With regards to claim 14 of the instant application, all the limitations can be found in claim 1, 11, 13, and 14 of ('974) with the exception of clarifying that the interconnection of the depression and a tooth of the component provide a predetermined orientation of a sensor within said interior. However if every element of the apparatus is disclosed within the claims 1, 11, 13 and 14 of patent no. 6694974 and that there is an interconnection of said locating depression and tooth, then it is inherent that they would provide a predetermined orientation of a sensor within said interior as claimed in the instant application.

40. Claims 1-10 and 12-14 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6349722 ('722). Although the conflicting claims are not identical, they are not patentably distinct from each other because they are drawn to the same invention.

41. With regards to claim 1 of the instant application, all the limitations can be found in claims 3 and 5 of ('722) with the exception of clarifying that the interconnection of the depression and a tooth of the component provide a predetermined orientation of a

sensor within said interior. However if every element of the apparatus is disclosed within the claims 3 and 5 of patent no. 6349722 and that there is an interconnection of said locating depression and tooth, then it is inherent that they would provide a predetermined orientation of a sensor within said interior as claimed in the instant application.

42. With regards to claim 2 of the instant application, all the limitations can be found in claims 3 and 5 of ('974).

43. With regards to claim 3 of the instant application, all the limitations can be found in claims 3 and 5 of ('722). Within claim 3 of ('722), what is claimed is "at least two projecting tab means..." which would include the limitation of claim 3 of the instant application of "wherein said sensor comprises two projecting tabs."

44. With regards to claims 4-6 of the instant application, all the limitations can be found in claims 3 and 5 of ('722).

45. With regards to claims 7-11 of the instant application, all the limitations can be found in claims 3, 4, and 5 of ('722).

46. With regards to claim 12 of the instant application, all the limitations can be found in claims 3, 4, and 5 of ('722) with the exception of wherein said flow rate sensor housing is positioned downstream of said temperature sensor housing in order that heat produced by said flow rate sensor housing does not affect said temperature sensor housing. What is claimed in claims 3,4, and 5 of '722 is wherein sensing means of said flow rate sensor housing means is exposed at or near the sensing end of the flow rate sensor housing means up stream of and spaced across said gaseous flow from the

sensing means of said temperature sensor housing means is encapsulated at or near the sensing end of the temperature sensor housing means in order that heat produced by the sensing means of said flow rate sensor housing means does not affect the sensing means of said temperature sensor housing means. Since it is also taught within the claims of '722 that placing the flow rate sensor housing upstream from the sensing means of said temperature sensor housing means in order that heat produced by the sensing means of said flow rate sensor housing means does not affect the sensing means of said temperature sensor housing means, it is concluded by the examiner that there is no criticality for positioning the flow rate sensor housing downstream of the temperature housing since the same result is achieved by positioning the flow rate sensor upstream of the temperature housing means. Therefore it would have been an obvious matter of design choice to one of ordinary skill in the art to place the flow rate sensor housing either upstream or downstream of the temperature housing means since both configurations are intended to minimize the effect of the heat produced from the flow sensor on the temperature sensor housing.

47. **With regards to claim 14** of the instant application, all the limitations can be found in claims 3 and 5 of ('722) with the exception of clarifying that the interconnection of the depression and a tooth of the component provide a predetermined orientation of a sensor within said interior. However if every element of the apparatus is disclosed within the claims 3 and 5 of patent no. 6349722 and that there is an interconnection of said locating depression and tooth, then it is inherent that they would provide a

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predetermined orientation of a sensor within said interior as claimed in the instant application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

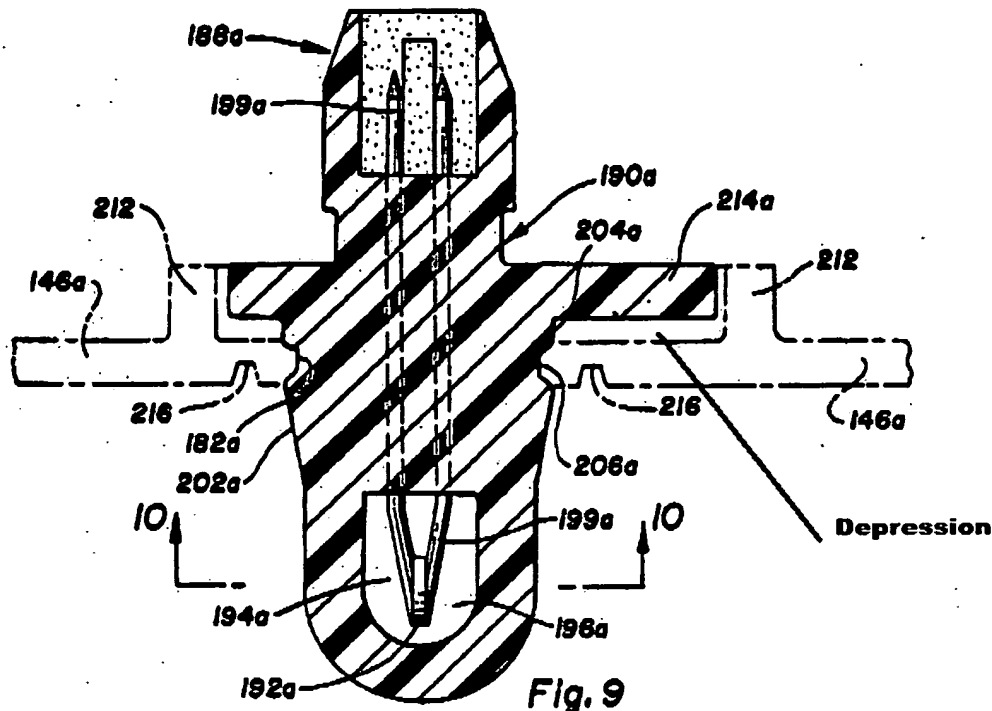
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

48. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5261272 to Rush, II et al. Although the preamble states that the claimed invention is to be used in a breathing circuit, since there is no positive recitation in the claims that ties the component to be used in a breathing circuit, any temperature and flow sensor that would be fully capable of being used in a breathing circuit would reasonably read on the claimed invention.

49. With regards to claim 1, what is taught and shown by Rush, II et al in Fig. 9 shown below is a sensor for an integrated induction system adapted for mounting on an engine to sense temperature and hence flow through the engine. The airflow component has an interior for conveying airflow comprising: a sensor entry port (Fig. 9; gap between base strip 146a) configured to receive a sensor (188a), and a locating depression (labeled below) configured to receive a complementary locating tooth (214a)

from a sensor, the interconnection providing a predetermined orientation of a sensor within said interior.

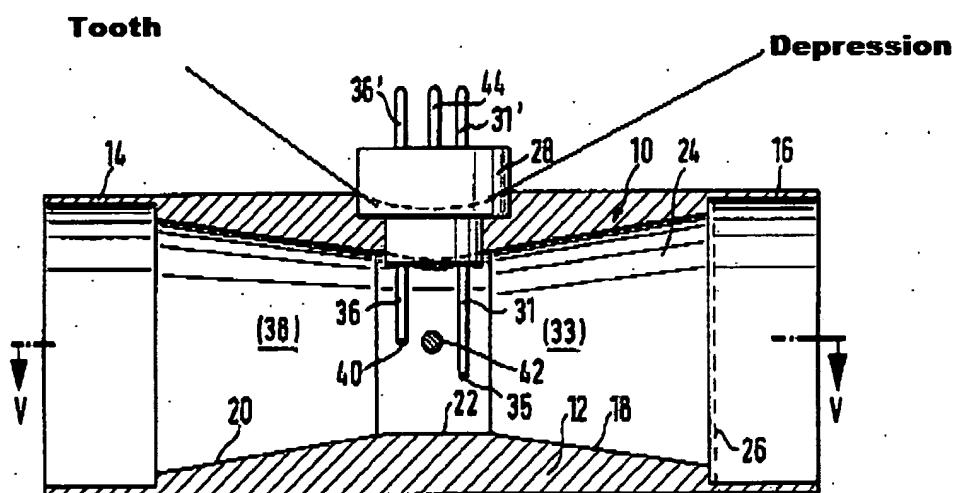


50. Claims 1 and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4363238 to William.

51. **With regards to claim 1**, what is taught and shown by William in Fig. 1 below is a breathing circuit component or connector having an interior for conveying respiratory gas comprising: a sensor entry port (crossbore passage leading into interior of conduit; Col. 2, lines 61-66) configured to receive a sensor (28; contains sensing elements 34, 35, and 40), and a locating depression (labeled in diagram below as the dotted line portion marking the depression from the outer surface of the conduit) configured to

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receive a complementary locating tooth (labeled below; examiner is using a reasonable broad interpretation of the word tooth to be an extension from the body of the sensor which in this case is the larger cylindrical portion of the body of the sensor that fits in the depression) from a sensor, the interconnection of said depression and a tooth providing a predetermined orientation of a sensor within said interior.

**Fig. 1**

52. With regards to claim 14, what is taught and shown by William in Figs. 1-3 is a breathing circuit component having an interior for conveying respiratory gas comprising: a gas inlet (14) communicating with said interior and configured to connect to an outlet of humidifier or other breathing assistance apparatus (respirator; Col. 2, lines 53-55) a gas outlet (16) communicating with said interior and configured to connect to a conduit

(Col. 2, lines 53-55), a sensor entry port (crossbore passage leading into interior of conduit; Col. 2, lines 61-66) configured to receive a sensor (28; contains sensing elements 34, 35, and 40), and a locating depression (labeled in Fig. 1 above as the dotted line portion marking the depression from the outer surface of the conduit) configured to receive a complementary locating tooth (labeled in Fig. 1 above; examiner is using a reasonable broad interpretation of the word tooth to be an extension from the body of the sensor which in this case is the larger cylindrical portion of the body of the sensor that fits in the depression) from a sensor, the interconnection providing a predetermined orientation of a sensor within said interior.

53. **With regards to claim 15**, what is taught and shown by William in Fig. 1-3 is a breathing circuit component wherein said sensor entry port (crossbore passage leading into the interior of the conduit; Col. 2, lines 61-66) comprises an annular cylinder having a passage communicating with and extending from said interior (Fig. 1; passage formed by cross bore shown by the dotted lines starting at the interface between the body 12 and the hollow conduit and ending at the interface between the body and the outer surface of the housing, which does extend from the interior which is being defined as the interface between the hollow conduit and the beginning of the body 12), said passage being substantially perpendicular to said interior.

54. **With regards to claim 16**, what is taught and shown by William in Figs. 1-3 is a breathing circuit component wherein said locating depression comprises a notch (labeled in Fig. 1 above as the dotted line portion marking the depression or notch from the outer surface of the conduit) in the end of said cylinder distant said interior.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

55. Claims 17-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4363238 to William.

56. With regards to claim 17, what is taught and shown by William in Fig. 1-3 is a breathing circuit component with all the limitations of claim 16 as rejected above and 17 with the exception of the notch being substantially "V" shaped. What is taught and shown by William in Fig. 1 is a depression that is substantially "U" shaped. After reviewing the specification, the examiner has concluded that at no point in the disclosure does the applicant establish any criticality for utilizing a "V" shaped notch. Therefore it would have been an obvious matter of design choice to one of ordinary skill

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in the art at the time the invention was made to have a notch that is V, U or any other shape that would be effective in locking two separate pieces together.

57. **With regards to claim 18**, what is taught and shown by William in Fig. 1-3 is a breathing circuit component wherein a base, or bottom portion of the notch prior to the interior conduit, of the notch is rounded (Fig. 1).

58. **With regards to claim 19**, what is taught and shown by William in Fig. 1-3 is a breathing circuit component wherein a diameter of said passage ensures a substantially airtight seal against a sensor located therein (From Fig. 1 it is shown by William that the sensor body completely occludes the passage formed by the crossbore leading into the hollow conduit.

59. **With regards to claim 20**, what is taught and shown by William in Fig. 1-3 is a breathing circuit component with all the limitations of claims 19 as rejected above and 20 with the exception of having an inlet that includes an exterior surface comprising a tapered male portion configured to connect to a tapered female portion of an inner surface of an outlet of humidifier, or other breathing assistance apparatus. What is shown and taught by William is that inlet 14 is configured to be attached to a respirator conduit (Col.2, lines 53-55). It is also shown in Fig. 1 that the interior of the inlet 14 is tapered configured to connect to a tapered exterior surface of the respirator conduit.

After reviewing the specification, the examiner has concluded that at no point does the applicant establish any criticality for utilizing an inlet having an exterior surface comprising a tapered male portion configured to connect to a tapered female portion of an inner surface of an outlet of a breathing device. Therefore it would have been an

obvious matter of design choice to one of ordinary skill in the art at the time the invention was made to utilize an inlet that includes an inlet with either an interior or exterior surface comprising a tapered male portion configured to connect to a tapered female portion since both are effective means to connect two conduits.

60. **With regards to claim 21**, what is taught and shown by William in Fig. 1-3 is a breathing circuit component with all the limitations of claim 20 as rejected above and wherein the gas outlet includes an inner surface (Fig. 1 shows tapered interior surface) configured to form a substantially airtight seal against an exterior surface of a conduit.

61. **With regards to claim 22**, what is taught and shown by William in Fig. 1-3 is a breathing circuit component with all the limitations of claim 21 as rejected above and 22 with the exception of wherein the inner surface of the has outlet and the exterior surface of the conduit are permanently bonded. What is taught by William in Col. 2, lines 53-55 is that the inlet and outlet are capable of being attached to a conduit implying that is detachably attached to each other. After reviewing the specification, the examiner has concluded that at no point does the applicant establish any criticality for having the inner surface of the gas outlet and the exterior surface of the conduit being permanently bonded. Therefore it would have been an obvious matter of design choice by one of ordinary skill in the art at the time the invention was made to either have the inlets and outlets detachably attached to conduits, or permanently bonded to the conduits because both are effective means of securing the inlets and outlets to conduits forming airtight seals.

62. **With regards to claim 23**, what is taught and shown by William in Fig. 1-3 is a breathing circuit component further comprising a flow sensor (28) having a substantially cylindrical exterior (Fig. 1) configured to form an airtight seal against said passage (crossbore passage leading into hollow interior of conduit), a sensing end (40 and 35) and a locating tooth (labeled in Fig. 1 above; examiner is using a reasonable broad interpretation of the word tooth to be an extension from the body of the sensor which in this case is the larger cylindrical portion of the body of the sensor that fits in the depression) to mate with said locating depression (labeled in Fig. 1 above as the dotted line portion marking the depression from the outer surface of the conduit) and locate said sensing end in predetermined location or orientation within said interior.

63. **With regards to claim 24**, what is taught and shown by William in Fig. 1-3 is a breathing circuit component with all the limitations of claim 23 as rejected above and 24 with the exception of the notch being substantially "V" shaped. What is taught and shown by William in Fig. 1 is a depression that is substantially "U" shaped. After reviewing the specification, the examiner has concluded that at no point in the disclosure does the applicant establish any criticality for utilizing a "V" shaped notch. Therefore it would have been an obvious matter of design choice to one of ordinary skill in the art at the time the invention was made to have a notch that is V, U or any other shape that would be effective in locking two separate pieces together.


64. **With regards to claim 25**, what is taught and shown by William in Fig. 1-3 is a breathing circuit component wherein a base, or bottom portion of the notch prior to the hollow interior conduit, of the notch is rounded (Fig. 1).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amadeus S. Lopez whose telephone number is (571) 272-7937. The examiner can normally be reached on Mon-Fri 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on (571) 272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Amadeus S Lopez
Examiner
Art Unit 3743
May 25, 2006

ASL


Henry Bennett
Supervisory Patent Examiner
Group 3700